## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:07cv385

WAYNE K. PURCELL,	)	
Dlointiff	)	
Plaintiff,	)	
Vs.	)	ORDER
	)	
MISSION HOSPITALS,	)	
	)	
Defendant.	)	
	)	

THIS MATTER is before the court on defendant's Motion for Summary Judgment. In accordance with <u>Roseboro v. Garrison</u>, 528 F.2d 309 (4th Cir. 1975), plaintiff, who is proceeding *pro se*, is cautioned that he carries a heavy burden in responding to a motion for summary judgment. Rule 56(e), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

Fed.R.Civ.P. 56(e). This language means that if the plaintiff has any evidence to offer to show that there is a genuine issue for trial, he must now present it to this court in

a form which would otherwise be admissible at trial, i.e., in the form of affidavits or

unsworn declarations. An affidavit is a written statement under oath; that is, a

statement prepared in writing and sworn before a notary public. An unsworn

statement, made and signed under the penalty of perjury, may also be submitted.

Affidavits or statements must be presented by plaintiff to this court within fourteen

(14) days from the date of this Order and must be filed in duplicate. As stated by Rule

56(e), plaintiff's failure to respond may result in the action being dismissed by way of

summary judgment. Having considered defendant's motion and reviewed the

pleadings, the court enters the following Order.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff file his response to

defendant's Motion for Summary Judgment (#10) within 14 days of the entry of this

Order.

Signed: August 30, 2008

Dennis L. Howell

United States Magistrate Judge